

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

BRIAN SLOVER,

Plaintiff,

vs.

CITIBANK (SOUTH DAKOTA), N.A.,

Defendant.

CASE NO.

JUDGE:

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. Sections 1332(a), 1441(a), and 1446, Defendant Citibank (South Dakota) N.A. ("Citibank") hereby removes the action entitled Brian Slover v. Citibank (South Dakota), N.A., Cuyahoga County Court of Common Pleas, Ohio, Case No. CV09690000 (the "Action"), to the United States District Court for the Northern District of Ohio on the following grounds:

1. On or about April 20, 2009, Defendant received service of the Summons and Complaint in the Action.
2. Citibank has timely filed this Notice of Removal within 30 days of receiving service of the Summons and Complaint. See 28 U.S.C. § 1446(b).
3. In the Complaint, Plaintiff Brian Slover ("Plaintiff") asserts a claim against Citibank based on allegations that Citibank failed to respond to Plaintiff's complaints regarding identity theft. Citibank denies any wrongdoing or liability in the Action.
4. This Court has original jurisdiction over the Action under 28 U.S.C. § 1332(a) and the Action is removable to this Court by Citibank pursuant to the provisions of 28 U.S.C. §

1441(b) in that it is a civil action between citizens of different states and the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs, as explained below.

5. Plaintiff alleges in the Complaint that he resides in Parma Heights, Ohio. See Complaint. Accordingly, based on the Complaint, Citibank is informed and believes that Plaintiff is a citizen of the State of Ohio.

6. Citibank is a National Bank chartered by the Office of the Comptroller of the Currency. It is located in Sioux Falls, South Dakota, with its principal place of business in the State of South Dakota. For purposes of diversity jurisdiction, National banks, like Citibank, are "deemed citizens of the States in which they are respectively located." See 28 USCA § 1348; accord American Surety Co. v. Bank of Cal., 133 F.2d 160, 162 (9th Cir. 1943); Bank of Am. N.A. v. Johnson, 186 F. Supp. 2d 1182, 1183-84 (W.D. Okla. 2001). Accordingly, Citibank is a citizen of the state of South Dakota.

7. In the Complaint, Plaintiff expressly seeks damages in the sum of \$250,000.00. See Complaint. Plaintiff's own damage request controls the amount in controversy. See Sanchez v. Monumental Life Ins. Co., 102 F.3d 398, 402 (9th Cir. 1996). Indeed, because Plaintiff initiated the case in state court requesting damages in excess of \$75,000.00, there is a presumption that Plaintiff did not inflate the damage claim in order to support federal diversity jurisdiction. See St. Paul Mercury Indem. Co. v. Red Cab Co., 303 U.S. 283, 290, 58 S. Ct. 586, 82 L. Ed. 845 (1938).

8. Based on the foregoing, Citibank respectfully submits that the amount in controversy in the Action exceeds the jurisdictional minimum of \$75,000.

9. This Court is the proper district court for removal because the Cuyahoga County Court of Common Pleas is located within the United States District Court for the Northern District of Ohio.

10. True and correct copies of all pleadings, process, and orders served upon Citibank in the Action are attached in composite Exhibit A.

11. Citibank is simultaneously filing a copy of this Notice of Removal of Action with the state court in the Action. Citibank will serve Plaintiff with copies of this Notice of Removal and the Notice filed in the Action.

12. By virtue of this Notice of Removal of Action and the Notice filed in the Action, Citibank does not waive its rights to assert any personal jurisdictional defense or other motions including Rule 12 motions and/or motions to compel arbitration permitted by the Federal Rules of Civil Procedure.

Respectfully submitted,

/s/ Christine M. Garritano

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*Attorneys for Defendant Citibank (South  
Dakota) N.A.*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing has been served upon the following parties via regular U.S. Mail, postage prepaid this 18<sup>th</sup> day of May, 2009:

Brian Slover  
6463 W. 130<sup>th</sup>  
Parma Heights, Ohio

/s/ Christine M. Garritano